

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JOSE ANTONIO RODRIGUEZ,
Plaintiff
v.
NAPHCARE, et al.,
Defendants

Case No.: 3:21-cv-00185-ART-CSD

Order

Re: ECF Nos. 72, 77, 78

Plaintiff

NAPHCARE, et al.,
Defendants

Defendants

	<p style="text-align: center;">UNITED STATES DISTRICT COURT</p> <p style="text-align: center;">DISTRICT OF NEVADA</p>
ANTONIO RODRIGUEZ, Plaintiff	Case No.: 3:21-cv-00185-ART-CSD Order Re: ECF Nos. 72, 77, 78
HCARE, et al., Defendants	

Defendants filed a motion for summary judgment. (ECF No. 53.) Plaintiff filed a
response. (ECF No. 61.) Defendants filed a reply. (ECF No. 62.) Defendants then filed a motion
for leave to file supplemental evidence in support of their motion, which the court granted, and
plaintiff leave to file a response to the supplement on or before October 14, 2022. (ECF
No. 63, 64.) Defendants filed their supplement on September 28, 2022. (ECF No. 65.)

On October 3, 2022, Plaintiff filed a “Response to Defendants 2nd Response in Summary
ent and Opposition to Summary Judgment.” (ECF No. 67.) This document is not in
use to the supplement filed by Defendants, but is a response to Defendants’ reply in support
r motion for summary judgment. Defendants have moved to strike this document as an
er sur-reply. (ECF No. 72.)

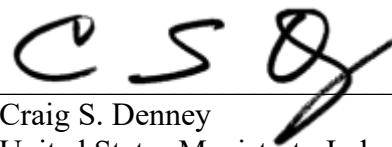
1 On October 31, 2022, Plaintiff filed a motion for leave of court to allow his sur-reply,
2 asserting that he was under the impression he was allowed to respond to their reply. (ECF No.
3 77.) On November 23, 2022, Plaintiff filed a motion for leave of court and response to
4 Defendants' sixth supplement to Rule 26 disclosures. (ECF No. 78.) In this document, Plaintiff
5 asserts that regardless of whether his cancer is in remission or his hepatitis C has cured on its
6 own, NaphCare did not provide Plaintiff with medical treatment, and Plaintiff should be allowed
7 to proceed and Defendants' motion for summary judgment should be denied.

8 The Local Rules provide for the filing of a motion, response, and reply. LR 7-2(a), (b). A
9 sur-reply, which is a response to a reply brief, is not permitted without leave of court granted for
10 good cause, and motions for leave to file a sur-reply are discouraged. LR 7-2(b), (g). The court
11 may strike supplemental filings made without leave of court. LR 7-2(g).

12 Here, Plaintiff filed his sur-reply (ECF No. 67) without leave of court, and while he
13 subsequently filed a motion for leave to file a sur-reply, this should have been done before the
14 sur-reply was filed. In any event, the motion for leave does not set forth good cause for
15 permitting a sur-reply. Therefore, Defendants' motion to strike (ECF No. 72) is **GRANTED**;
16 Plaintiff's sur-reply (ECF No. 67) is **STRICKEN**; and Plaintiff's motion for leave to file the sur-
17 reply (ECF No. 77) is **DENIED**.

18 Plaintiff's motion at ECF No. 78 also appears to be a motion to file another sur-reply, but
19 again, good cause has not been demonstrated. Therefore, Plaintiff's motion at ECF No. 78 is
20 **DENIED. IT IS SO ORDERED.**

21 Dated: December 7, 2022

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Craig S. Denney
United States Magistrate Judge